

# State of Arizona Board of Respiratory Care Examiners 1400 W. Washington, Suite 200 Phoenix, Arizona 85007 (602) 542-5995 FAX (602) 542-5900 www.rb.az.gov

## BOARD OF RESPIRATORY CARE EXAMINERS BOARD MEETING MINUTES

Thursday, August 21, 2008, at 9:00 a.m. Basement Conference Room B-1 1400 W. Washington, Phoenix AZ

**Board Members Present:** Vice Chair Becky Brimhall, , James Love, John O'Donnell, David

Sanderson and Bill Cohagen

Catherine Lindstrom (arrived at 10:10 a.m.)

**Board Members Absent:** Chair Toni Rodriguez,

**Staff Present:** Mary Hauf Martin, Executive Director

David Geriminsky, Program and Project Specialist

Valarie Davis, Administrative Assistant

**Board's Legal Counsel:** Michelle L. Wood, Assistant Attorney General

#### I CALL TO ORDER

The Meeting was called to order at 9:02 a.m. by Vice Chair Becky Brimhall

#### DISCUSSION/ACTION ON EXECUTIVE DIRECTOR'S REPORT

1. Review of a previous request for Board consideration of the following Scope of Practice issue: Persantine Stress Test.

The Executive Director reviewed the Advisory Opinion adopted at the last meeting, and stated that there was a request for a review, to make sure it says what the Board wants to say. After a discussion, the Board voted to quote the HCFA Program Memorandum, Transmittal B-01-28, in the Opinion, as it relates to "personal supervision" which means the physician must be in attendance. In addition, the Board would like language in the Opinion regarding the need for training and competency demonstration for RCPs who perform this test. Once a new Draft policy is written, the issue will be placed on an Agenda for the Board to review.

2. Review of a request from Bill Cohagen, RRT, of an issue related to training of RCPs from other States at facilities here in Arizona. The training would last from two to four weeks.

The Board reviewed the laws and rules, and determined that no exemption exists for training. An Arizona license is required for anyone who performs patient care in Arizona.

3. Report to the Board regarding information obtained from Laboratories stating they will not perform hair follicle tests.

The Executive Director reported that, at this time, laboratories are not willing to perform hair follicle tests on individuals. This has been a test the Board has utilized for investigations into Allegations of Unprofessional Conduct that involve substance abuse issues. Until further notice, then, the Board will utilize other testing methods, such as mouth swabs, urine screens and breathalyzers.

4. Regarding Board Membership: The Governor has reappointed Board members Bill Cohagen and John O'Donnell to new, three year terms!

The Executive Director stated that the paperwork was being processed; and noted that these were timely reappointments by the Governor's Office.

5. Personnel Matters. Review of Executive Director. This item is due to the Board's decision to follow up on a refusal by the Department of Administration to allow the salary increase approved by the Board for its Executive Director at the Board meeting held on May15, 2008.

The Executive Director reported that the Department of Administration is now saying that the raise that was previously approved could be implemented, but only retroactive to July 1, 2008. The Department of Administration is now also requiring that a Board Officer sign the Personnel Action Form that is submitted to process the raise approved at the May 15, 2008 meeting. Bill Cohagen moved that Board Vice Chair Becky Brimhall should sign the Form on behalf of the Board, approving the raise. John O'Donnell seconded. The Motion passed unanimously; and Vice Chair Brimhall signed the form on behalf of the Board.

6. Regarding the annual NBRC State Liaison Meeting, on September 12-13, 2008, authorization for paying to send one person to the meeting in Kansas City.

The Executive Director requested the Board's approval to pay the Out of State Travel expenses for Board Staff Member David Geriminsky to attend the annual, training meeting. John O'Donnell moved to approve the expense. David Sanderson seconded. The Motion passed unanimously.

- 7. Report on the Governor's Regulatory Review Council (GRRC) meeting held on August 5, 2008. GRRC approved the Board's Rules. The new Rules have an effective date of October 4, 2008, and are on the following topics:
  - A. Reinstatement of Expired License; Request for Modification of Probation
  - B. An amended definition of Professional Conduct

The Executive Director reported that the GRRC meeting went well, and uneventfully.

8. Notice: The Agenda for the September 18, 2008 Board meeting will include a review of two issues related to the following: Homehealth.

The Executive Director stated that this item is on the Agenda to let people who are interested in Home Health issues know it will be discussed.

9. Board Office Highlights

The Executive Director reported that efforts are continuing to move away from 3-Ring binders, toward using electronic means, when Staff provides Board members with all materials for monthly meetings.

#### II APPROVAL OF MINUTES

1. Meeting Held on July 17, 2008 Regular, Monthly Board Meeting

**David Sanderson** moved approval of the aforementioned Minutes as presented. **Bill Cohagen** seconded. **The Motion passed.** 

2. Meeting Held on July 21, 2008 Conference Call

**John O'Donnell** moved approval of the aforementioned Minutes as presented. **James Love** seconded. **The Motion passed.** 

#### III DISCUSSION/ACTION ON APPLICATIONS FOR LICENSURE

A. Recommended for approval by the Executive Director

Margie Bernardo	Mary Bigley
Scott Callahan	Lana Chapman
Simona Cosa	Diane Deever
Randall Genet	Daniel Graham
Keophaythourie Mack	Monica Mendenhall
James Peterson	Beth Plummer
Debbie Rhodes	Mona Rodriguez
Marisa Schroeder	LaDonna Shomlea
Kristen Tripp	Esmeralda Uribe
	Scott Callahan Simona Cosa Randall Genet Keophaythourie Mack James Peterson Debbie Rhodes Marisa Schroeder

Sharron Warren

Joseph Woolster

**Bill Cohagen** moved approval of the aforementioned individuals listed and recommended by the Executive Director. **James Love** seconded the Motion. **The Motion passed.** 

B. Application for Licensure/Interview

Kevin Burke
 Robert McGuffie
 Leah Linde
 Kristopher Middaugh
 Case Number C002295-09-008444
 Case Number C002297-08-008487
 Case Number C002186-08-008145

1. Mr. Burke was present. The Executive Director summarized Mr. Burke's situation, stating that he had provided the necessary documents establishing that he is eligible for permanent licensure.

After discussion, **Bill Cohagen** moved that Mr. Burke be granted a license under the terms of a rehabilitative order of probation. The probation would include going to AA meetings at lease once a week, Obtaining and keeping a Sponsor, Random Drug Screens, completion of his previous court order, and all the other standard terms of probation. This probation will last for one year. **John O'Donnell** seconded. **The Motion passed.** 

2. Mr. McGuffie was present. The Executive Director summarized Mr. McGuffie's situation, stating that he had provided the necessary documents establishing that he is eligible for permanent licensure.

After discussion, **Becky Brimhall** moved that Mr. McGuffie be granted a license. **Bill Cohagen** seconded. **The Motion passed.** 

3. Ms. Linde was present. The Executive Director summarized Ms. Linde's situation, stating that she had provided the necessary documents establishing that she is eligible for permanent licensure.

After discussion, **James Love** moved that Ms. Linde be granted a license. **Bill Cohagen** seconded. **The Motion passed.** 

4. Mr. Middaugh was present. The Executive Director summarized Mr. Middaugh's situation, stating that he had provided the necessary documents establishing that he is eligible for permanent licensure.

After discussion, **Catherine Lindstrom** moved that Mr. Middaugh be granted a license. **David Sanderson** seconded. **The Motion passed.** 

### C. Re-Application for Licensure/Interview

Recommended for approval by the Executive Director

Catherine Bobik Maureen Dwerlkotte Shontae Hill Jean Bonnell Jennifer Garcia Jaelanna Covert Margaret Gardner

**Bill Cohagen** moved approval of the aforementioned individuals listed and recommended by the Executive Director. **John O'Donnell** seconded the Motion. **The Motion passed.** 

#### Interview

#### 1. Karen Warner

Case Number C002298-09-008713

Ms. Warner was present. The Executive Director summarized Ms. Warner's situation, stating that she had provided the necessary documents establishing that she is eligible for permanent licensure.

After discussion, **James Love** moved that Ms. Warner be granted a license under the terms of a rehabilitative order of probation. The probation would include random drug screens monthly logs of AA meeting attendance, and all the other standard terms of probation. **David Sanderson** seconded. **The Motion passed.** 

#### D. Ratification of Temporary Licenses Issued pursuant to A.R.S. § 32-3521

Deanna Avelar Vanessa Bustin Julie Colquist **Emily Dougan** Joshua Globke LaSheena Harris Emina Lubovac Jessica Middaugh Nicole Niemi Danielle Petty Zaida Reynaga Breanna Sayers Sandra Spears Vincent Thomas Richard Voltman Denise Wright Clayton Zimpelman Michelle Backof Scott Callahan Vincent Conanan Jessika Fallows Kathren Guenther Leah Harris Keophaythoui Mack Lisa Morales Dana O'Conner Georgia Plante Deanna Sanders Pamela Schein Vanessa Storto Gerardo Urrea-Gutierrez Tammy Weber Rose Wycoco

James-Paul Beltran Megan Cloke Shannon De Laney Jane Finely Ana Gutierrez Wade Heatherly Christine McMillan Joshua Nichols Keith Phelps Christen Ramsey Cari Saur LaDonna Shomlea Jackie Stubbs Maggie Vickers Thomas Wells Alex Zambrano

**John O'Donnell** moved ratification of the aforementioned Temporary Licenses listed and recommended by the Executive Director. **Bill Cohagen** seconded the Motion. **The Motion passed.** 

E. Ratification of Temporary License Extension Issued pursuant to A.R.S. § 32-3521

Denise Brown Joseph Evensiosky Kyle Hurst Michelle Nebo-Csanyi Roberto Picazo William Stever

**Bill Cohagen** moved ratification of the aforementioned Temporary License extensions listed and recommended by the Executive Director. **John O'Donnell** seconded the Motion. **The Motion passed.** 

## IV DISCUSSION/ACTION ON ADMINISTRATIVE CLOSING OF APPLICATION FILES

Recommended for closing of application files.

Maria Ambrose Soampom Antahn Johanna Arguello

Sara Haebich Tina Montoya

**John O'Donnell** moved that the Board administratively close the application files of the aforementioned individuals. **Bill Cohagen** seconded. **The Motion passed.** 

## V DISCUSSION/ACTION ON ADMINISTRATIVE CLOSING OF TWO YEAR INACTIVE FILES

The Executive Director stated that these were routine two year inactive license files.

Recommended for closing of inactive files.

Shelley Ameduri Jennifer Anderson Anna Aguilera Linda Baker Carrie Beadman Keith Belcher Emilio Cabanas Sonya Castellanos Tamara Clemans Grace Colden Angela Coats Sharon Farley Nathanial Fuerhoff Simon Grozav Patricia Hein Eveghenya Hladky Tara Krueger Roy Kerns Robert Lamme David Loach Lisa Lumby David NiCastro Noel Ortiz Joseph Padilla Scott Portner Melinda Potter Rosa Paz Charla Rispoli John Shelburne Belinda Schuler Bruce Stevens Robert Vanderwerf Jean West

**Bill Cohagen** moved that the Board administratively close the two year inactive files of the aforementioned individuals. **John O'Donnell** seconded. **The Motion passed.** 

#### VI DISCUSSION/ACTION ON NOTICES OF LICENSE EXPIRATIONS

The Executive Director stated that these were routine license expirations.

Debra BallardDino DegaetanoCatherina GilzingerDouglas HarpoldDaniel HarrisDaniel HonestoKaren JohnsonCasey JohnstonDonna LinhartColleen McMillarHector MendozaKim Michaud

Zettie Michie John Peart Richard Perrin

Linda Puckett Ann Marie Shaw John Sweet Jason Vanloo Robert Vega Nicholaus Wett

**Bill Cohagen** moved to approve these license expirations. **John O'Donnell** seconded. **The Motion passed.** 

## VII. DISCUSSION/ACTION ON RATIFICATION OF RENEWAL OF LAPSED LICENSES

Ratify licenses issued by the Executive Director to individuals who met requirements for renewal.

A. Recommended for approval by the Executive Director

The Executive Director reported that these were routine license reinstatements.

Deborah Dailey Eric Gibbons Carla Moutinho

**David Sanderson** moved to ratify these reinstated licenses. **John O'Donnell** seconded. **The Motion passed.** 

B. Application for Renewal of Licensure/Interview

Pamela Diffin Case Number C002302-09-000743

Ms. Diffin was present. The Executive Director summarized Ms. Diffin's situation, stating that she had provided the necessary documents establishing that she is eligible for license renewal.

After discussion, **Becky Brimhall** moved that Ms. Diffin be granted a license under the condition that she pays \$500.00 within 45 days of the Board meeting for working several shifts without a license. **Bill Cohagen** seconded. **The Motion passed.** 

## VIII CONSIDERATION AND ACTION ON INVESTIGATIONS OF UNPROFESSIONAL CONDUCT

Patricia Herd Case Number C002294-09-005912
 Tia Volkman Case Number C002282-09-003318

3.	Joshua Potter	Case Number 05946-07-2272
4.	Jobe Lesperance	Case Number C002073-08-005326
5.	John D'Urbano	Case Number 002179-08-0523
6.	Dorsie Robinson	Case Number C002289-09-0511
7.	Jerry Meade	Case Number C002299-09-004904
8.	Jerry Meade	Case Number C002300-09-004904
9.	Pamela Diffin	Case Number C002302-09-000743 *

#### 1. Patricia Herd

Case Number C002294-09-005912

Ms. Herd was present. The Executive Director summarized the allegation of unprofessional conduct against Ms. Herd. After discussion **Becky Brimhall** moved to take this allegation to the level of an Informal Interview. **John O'Donnell** seconded. **The Motion Passed.** 

#### 2. Tia Volkman Case Number C002282-09-003318

Ms. Volkman was present. The Executive Director summarized the allegation of unprofessional conduct. The allegation, filed by Del E. Webb Hospital, is that Ms. Volkman failed to complete charting on six patients on September 17, 2007, while on duty at Sun Health. Ms. Volkman provided a written response, and other pertinent written information. She was present when the Board considered this matter, at the public meeting held on August 21, 2008. She stated that she was immersed in patient care, and did what she could at the time of the incident, to chart properly. She also told the Board that she could improve her charting, and needed to learn how to deal more effectively with feeling overburdened while on duty. Based upon the documents received, the Board found that substantial evidence was provided to establish that Ms. Volkman did not communicate effectively with her colleagues; and, that some patient charting was not performed completely, accurately and in a timely manner. The Board also found that there was insufficient evidence to support direct action against the license of Ms. Volkman. Rather, the Board decided to notify Ms. Volkman that continuation of the activities which led to the information being submitted to the Board may result in action against her license to practice respiratory care. After discussion Bill Cohagen moved to issue a letter of concern. James Love seconded. The Motion Passed.

#### 3. Joshua Potter Case Number 05946-07-2272

Mr. Potter was present. The Executive Director summarized the allegation of unprofessional conduct against Mr. Potter. After discussion **David Sanderson** moved to Dismiss this allegation. **John O'Donnell** seconded. **The Motion Passed.** 

#### 4. Jobe Lesperance Case Number C002073-08-005326

Mr. Lesperance was present. The Executive Director summarized the allegation of unprofessional conduct against Mr. Lesperance. The allegation, filed by Banner Desert Medical

Board Meeting Agenda August 21, 2008

Center, is that Mr. Lesperance was noted to have his eyes closed while he was to be manually ventilating a 28 day old patient. The patient's heart rate dropped during this episode, where the manual ventilation ceased. Mr. Lesperance was terminated from his position at the facility as a result of the incident.

Mr. Lesperance provided a written response, and other pertinent written information. He stated that: He is a good therapist who was exhausted on the day of the incident; He failed to give his full attention to his patient; and, He failed to communicate to his coworkers that he was too tired to perform his patient care duties appropriately. Based upon the documents received, the Board found that substantial evidence was provided to establish that Mr. Lesperance had conducted himself as alleged by Banner Desert Medical Health Center. The Board reviewed the entire situation, and also found that there was insufficient evidence to support direct action against the license of Mr. Lesperance. Rather, the Board decided to notify its licensee that continuation of the activities which led to the information being submitted to the Board may result in action against her license to practice respiratory care. After discussion **Catherine Lindstrom** moved to issue a letter of concern. **Bill Cohagen** seconded. **The Motion Passed.** 

#### 5. John D'Urbano Case Number 002179-08-0523

Mr. D'Urbaon was present, along with his attorney, Mr. Hershel Ber. The Executive Director summarized the allegation of unprofessional conduct against Mr. D'Urbano. The allegation, filed by John C. Lincoln Hospital – Deer Valley, is that: "While investigating a nursing complaint it was found that some of John's documentation on ventilator patients did not coincide with the ventilator machine log that tracks ventilator alarms, changes in settings as well as small volume nebulizer treatments."

On February 19, 2008, Mr. D'Urbano provided a response, via fax. He denied the allegations. And provided a reasonable, plausible explanation for the discrepancy in the ventilator machine log.

On August 07, 2008, the Board received by fax a letter from Mr. D'Urbano indicating that he retained a lawyer, Mr. Hershel Ber.

Mr. D'Urbano reiterated his written statement; explaining that he provided the proper patient care. He stated that the SVN treatments in question were run off the wall Oxygen meter, not through the ventilator. He felt that a lack of communication with his colleagues had led to a situation where it appeared he had not given treatments when, in fact, he had provided them. Based upon the information received, found that there was insufficient evidence to support direct action against the license of Mr. D'Urbano. Rather, the Board decided to notify its licensee that continuation of the activities which led to the information being submitted to the Board may result in action against his license to practice respiratory care. After discussion **David Sanderson** moved to issue a letter of concern. **James Love** seconded. **The Motion Passed.** 

**Recused:** Catherine Lindstrom

#### 6. Dorsie Robinson Case Number C002289-09-0511

Mr. Robinson was not present. The Executive Director summarized the allegation of unprofessional conduct against Mr. Robinson. After discussion **Bill Cohagen** moved to issue a Formal Complaint and Notice of Hearing. **James Love** seconded. **The Motion Passed.** 

#### 7. Jerry Meade

Case Number C002299-09-004904

Mr. Meade was present. The Executive Director stated that Mr. Meade, who has a documented history of habitual intemperance in the use of alcohol, has relapsed. A review of Mr. Meade's file documents that he was on probation with the Board from 1997 to 2000 for substance abuse. He was arrested for two DUIs in a seven month period. Mr. Meade provided no written response to these allegations prior to the meeting; however, he spoke to Board staff. Mr. Meade called the Board office on Wednesday, August 13, 2008, regarding a conversation he had with his current supervisor, Paul Rice. Mr. Meade stated that he knows that he did not report the November 2007 arrest for a DUI in a timely manner, but that he did disclose of the arrest and the charges being dropped with his renewal application in the middle of July. The Board office received his renewal application on July 15, 2008. Mr. Meade also stated that he is aware that he did not disclose a June 28, 2008 arrest for another DUI to the Board office, and that he has a court date regarding that DUI charge coming up, but did not say the date of that hearing.

Mr. Meade admitted that he had relapsed in both incidents where he was charged with DUI. He reiterated that he has a pending court matter regarding the June 2008 charge. Assistant Attorney General Michelle L. Wood presented the results of a verbal agreement with the Board's Licensee that would place Mr. Meade on probation for his violation of the laws and rules regulating the practice of respiratory care.

After a discussion, **Catherine Lindstrom** moved to accept the agreement and enter into this Consent Order; placing Mr. Meade on probation, requiring him to keep the Board informed of the outcome of his court-related matter, and to comply with any court-ordered sanctions that may be the outcome of the case. **Becky Brimhall** seconded. **The motion passed.** 

#### 8. Jerry Meade

Case Number C002300-09-004904

This Agenda Item was taken with Agenda Item VIII (7)

9. Pamela Diffin

Case Number C002302-09-000743

This Agenda Item was taken with Agenda Item VII (B)

# IX CONSIDERATION AND ACTION ON INFORMAL INTERVIEWS PURSUANT TO A.R.S. 32-3553(G)

No Informal Interviews were held this Board Meeting

## X CONSIDERATION AND ACTION ON FORMAL COMPLAINT HEARINGS PURSUANT TO A.R.S. §32-3553(G)

No Formal Hearings were conducted this Board Meeting

#### XI CONSIDERATION AND ACTION ON PREVIOUS BOARD ACTION

- A. Motion for Rehearing or Review of Decision Regarding Revocation of License
  - 1. Michael Ryan Case Number 01062-07-2306

#### Background

At the public meting of the Board held on June 19, 2008, the Board voted to revoke Mr. Ryan's license to practice respiratory care. He was served by U.S. certified mail with the Board's Complaint and Notice of Hearing which gave him notice of the time, place and location of the meeting; but, Mr. Ryan did not appear in person or represented by legal counsel. The Board's Complaint directed him to respond to the allegation in writing. While he did not provide a written response to the allegations, on June 18, 2008, Respondent submitted a request to reschedule the hearing. This request was received via facsimile. Respondent's rationale for his request was that he could not afford to comply with the requirements of an Interim Order Board members noted that Respondent had made no attempt whatsoever to comply, even with a provision of the Interim Order (a Pharmacy Profile) that he could have completed at no expense. After discussion, the Board voted unanimously to deny Respondent's request for a continuance, heard the case. At the conclusion of the case, the Board found that a preponderance of evidence was presented to support the information in the allegation. Chair Toni Rodriguez moved to adopt Findings of Fact and Conclusions of Law as presented in the Complaint and Notice of Hearing. John O'Donnell seconded. The motion passed unanimously. After further discussion, Bill Cohagen moved to revoke Respondent's license to practice respiratory care in Arizona. John O'Donnell seconded. The motion passed unanimously.

On August 21, 2008, the Board met to consider a timely motion, filed by the Licensee for a rehearing or review. Mr. Ryan was present. He admitted that he had not been truthful with the Board, or his substance abuse counselor. He asked that the Board take into consideration the many years he has practiced respiratory care without any other incidents, and asked to be able to keep his license. Assistant Attorney General Michelle L. Wood appeared on behalf of the State of Arizona, and presented the results of a verbal agreement with the Board's Licensee that would place Mr. Ryan on probation for his violation of the laws and rules regulation the practice of respiratory care, rather than revoking his license.

After a discussion, the Board voted to uphold its Findings of Fact and Conclusions of Law, adopted at the prior Board meeting. **Catherine Lindstrom** moved to grant Mr. Ryan's request for a review of the disciplinary action taken. **Becky Brimhall** Seconded. **The Motion Passed** 

After further discussion, **Catherine Lindstrom** moved to accept the agreement reached by Mr. Ryan and the Assistant Attorney General to place his license on probation. The probation includes that Mr. Ryan must comply with any treatment suggestions that his evaluator may give, that he attend each Board meeting, and all the other standard terms of probation. The probation would be for three years. **John O'Donnell** Seconded. **The Motion Passed** with **Bill Cohagen** Voting **Nay**.

B. Informal Interviews Regarding Probation Compliance

1. Robert Colon Case Number 04645-07-2265

Mr. Colon participated in the interview. No Board action was taken

- These Informal Interviews are scheduled for the afternoon session, which begins at 1:00 p.m.

Ricky Sanford
 Thomas Buzan
 Kristopher Munjoy
 Victor Galdos
 Case Number 00000-00-2124
 Case Number 07902-07-2300
 Case Number C002187-08-8115
 Case Number 07445-06-2165

1. Ricky Sanford Case Number 00000-00-2124

Mr. Sanford was present. After discussion, **Bill Cohagen** moved to lift the probation from Mr. Sanford's license. **Catherine Lindstrom** seconded. **The Motion Passed**.

2. Thomas Buzan Case Number 07902-07-2300

Mr. Buzan was present. After discussion, **James Love** moved to lift the probation from Mr. Buzan's license. **Bill Cohagen** seconded. **The Motion Passed**.

3. Kristopher Munjoy Case Number C002187-08-8115

Mr. Munjoy was present. No Board action was taken

4. Victor Galdos Case Number 07445-06-2165

Mr. Galdos was present. No Board action was taken

# XII CONSIDERATION/ACTION ON POSSIBLE VIOLATION OF A.R.S. § 32-3556 AND A.A.C. R4-45-214.(13.)

1. Janell Anthony Case Number C002303-09-0000

Ms. Anthony was not present. After discussion of this matter, which relates to the allegation found in Item VIII.9 of this Agenda, **Becky Brimhall** moved to dismiss this allegation. **John O'Donnell** seconded. **The Motion Passed**.

#### XIII CALL TO THE PUBLIC

There was no Public presentation to the Board.

#### XIV ESTABLISH DATE AND TIME OF NEXT BOARD MEETING

Thursday, September 18, 2008, at 9:00 a.m.

## XV ADJOURNMENT

Vice Chair Becky Brimhall adjourned the meeting at 2:49 p.m., without objection DATED this 10 th day of September 2008.

Mary Hauf Martin, Executive Director